



DEPARTMENT OF VETERANS AFFAIRS
OFFICE OF INSPECTOR GENERAL

DEPARTMENT OF VETERANS AFFAIRS

Mismanagement
of the VA Executive
Protection Division

REVIEW

REPORT #17-03499-20

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Executive Summary

Why the OIG Did This Review

In May 2017 and October 2017, several complainants made various allegations of mismanagement and misuse of the VA Executive Protection Division sufficient to compromise its mission to detect, deter, and defend against any threat of harm to the VA Secretary and Deputy Secretary.

These allegations have been summarized into two broad categories:

1. Problems pertaining to the general management of the Executive Protection Division, including ineffective procedures, scheduling and overtime abuses, pay administration issues, time card fraud, and various policy violations
2. Claims of waste and abuse arising out of the alleged misuse of the Executive Protection Division by former VA Secretary David Shulkin

The OIG performed this review to evaluate the merit of the complainants' allegations.

What the OIG Found

Regarding the first set of allegations, the OIG substantiated that VA mismanaged the Executive Protection Division from at least 2015. The OIG found the lack of an adequate threat assessment and the absence of written operational procedures were fundamental failings in providing critical executive protection functions. The OIG also identified several potential security vulnerabilities caused by members or supervisors of the Executive Protection Division, as well as abuses by agents who claimed to be performing official duties when they were not.

The OIG determined that the security measures provided by the Executive Protection Division were based on an informal and deficient threat assessment process. A threat assessment is an analysis of all threats against the individual protected (the principal) and is used to ensure security measures are adequate. The threat assessment also assures that the expenditure of taxpayer funds is necessary. As of January 2018, VA did not have an adequate threat assessment for former Secretary Shulkin. Moreover, notes provided by the VA Office of Security and Law Enforcement were incomplete and did not incorporate or otherwise address multiple threats made against Secretary Shulkin.

The OIG determined that these conditions occurred because VA lacked a sufficient written policy governing the preparation of a threat assessment for its principals. Furthermore, VA failed to specify the required content of the threat assessment and the frequency for updating it. The OIG determined that the Executive Protection Division also lacked written operational procedures detailing requirements and practices for addressing essential functions, such as

responding to an active shooter, terrorist attack, or direct threat to the principal. Instead, the Executive Protection Division operated with routinely informal practices, which created the risk that the security measures provided to VA executives were not aligned with actual security needs. The lack of sufficient procedures also meant that Office of Security and Law Enforcement roles and responsibilities were not clearly defined, which made it difficult to hold employees accountable.

The lack of adequate threat assessments and the insufficient written operational procedures resulted in security vulnerabilities, such as the following:

- An agent shared details of the VA Secretary's anticipated movements on multiple occasions with individuals who were unauthorized to receive the information. The recipients of this sensitive information included non-VA employees and the emails were sent unencrypted outside of VA.
- Agents established a practice of storing the motorcade vehicle keys behind the fuel door of the vehicle, rather than returning the keys to a secure location.
- According to Security Management, agents had not been wearing the VA-provided protective body armor designed to shield the agent and the principal from harm.
- According to the Acting Division Chief, undetected equipment problems with the VA Secretary's duress signaling system resulted in agents not receiving the alarm notification during an unannounced test.

In addition, the OIG identified an instance in which three Executive Protection Division agents falsely claimed to be performing official duties while on travel, when in fact they were engaged in a day-long personal tourist excursion. Those agents made false statements in requests for overtime, claiming it was official business, and their supervisor approved the time entries based on those misrepresentations. The OIG also identified improper use of government parking spaces for personal benefit by staff in the Executive Protection Division.

On March 30, 2018, then Assistant Secretary for Operations, Security, and Preparedness Donald P. Loren notified the OIG that he had instituted changes to address some of the issues under review.¹ In particular, Mr. Loren stated that he reassigned agents whose tenure on the Executive Protection Detail had exceeded six years. He also eliminated the use of one of the vehicles in the motorcade, except for instances when security assessments demonstrated that an additional vehicle was necessary.

¹ Assistant Secretary Loren resigned as of August 31, 2018. Effective September 12, 2018, the position of Assistant Secretary for Operations, Security, and Preparedness was eliminated. The Office of Operations, Security, and Preparedness and its associated functions were reassigned to the Assistant Secretary for Human Resources and Administration.

Regarding the second category of allegations, the OIG did not find evidence that Secretary Shulkin abused his authority with respect to his own use of the Executive Protection Division services, which included security and transportation for nonofficial events. Secretary Shulkin relied on advice from staff within the Office of Operations, Security, and Preparedness, and no one raised any concern that his use was inappropriate. The OIG concluded that Secretary Shulkin was within his discretion to use the Executive Protection Division for nonofficial events, given the lack of evidence that he was otherwise instructed. However, the OIG did determine that government resources—a vehicle and official scheduled hours—were used to transport the Secretary’s spouse. The OIG also found that Secretary Shulkin violated ethical regulations by permitting his VA employee driver to use a personal vehicle and personal time to provide transportation services to the Secretary’s wife.

What the OIG Recommended

The OIG made 12 recommendations to address the findings relating to the alleged mismanagement and misuse of the Executive Protection Division:

1. The Acting Assistant Secretary for Human Resources and Administration ensures that the VA Police Service publishes written operational policies and procedures to regulate essential functions of the Executive Protection Division, including threat assessment processes, motorcade operations, security drills, equipment maintenance, use of personal protective gear, and other topics deemed appropriate after consultation with executive protection experts.²
2. The Acting Assistant Secretary for Human Resources and Administration makes certain that an adequate threat assessment is developed and kept current for each principal secured by the Executive Protection Division.
3. The Acting Assistant Secretary for Human Resources and Administration, along with the Director of the Office of Security and Law Enforcement and the Director of Police Service, reviews the U.S. Secret Service recommendation made to VA in April 2017 about shift scheduling and either implements the recommendation or thoroughly documents the reasons for non-implementation.
4. The Acting Assistant Secretary for Human Resources and Administration confers with the VA Offices of General Counsel and Accountability and Whistleblower Protection to ensure that bills of collection are issued to agents identified as receiving improper payments of overtime or travel reimbursement and to determine the appropriate

² The OIG directed recommendations in the draft report to Ms. Jacquelyn Hayes-Byrd, who was then serving as the Acting Assistant Secretary for Human Resources and Administration. Mr. Daniel R. Sitterly was confirmed as the Assistant Secretary for Human Resources and Administration on January 7, 2019. Recommendations are now directed to Assistant Secretary Sitterly for implementation.

administrative action to take, if any, against agents and supervisors identified as submitting or approving falsified time cards.


5. The Acting Assistant Secretary for Human Resources and Administration consults with the Offices of General Counsel and Accountability and Whistleblower Protection to determine the appropriate administrative action to take, if any, against personnel involved with the nonsecure transmission of the former VA Secretary's anticipated movements to individuals external to VA who had no need to know.
6. The Acting Assistant Secretary for Human Resources and Administration ensures that the Executive Protection Division institutes procedures to report and appropriately address security lapses, such as those described in this report, and holds agents accountable for individual conduct that contributes to such lapses.
7. The Acting Assistant Secretary for Human Resources and Administration establishes written procedures for documenting the review and approval of employee overtime within the Executive Protection Division and ensures compliance.
8. The Acting Assistant Secretary for Human Resources and Administration assesses and takes remedial action, if necessary, to make certain that Executive Protection Division staff use parking and transit benefits in accordance with VA policy.
9. The Acting Assistant Secretary for Human Resources and Administration confers with the Offices of General Counsel and Accountability and Whistleblower Protection to determine whether any agents inappropriately accepted transit benefits while using VA parking spaces and, if so, determine the appropriate administrative action to take, if any.
10. The Acting Assistant Secretary for Human Resources and Administration works with the Offices of General Counsel and Accountability and Whistleblower Protection to institute procedures for an ombudsman or similar function that will enable Executive Protection Division agents to address management disputes without needing to involve the VA Secretary.
11. The Acting Assistant Secretary for Human Resources and Administration consults with the Office of General Counsel to confirm that the Executive Protection Division and the Office of Secretary have written policies and procedures that are reasonably designed to ensure that the principal under protection receives a thorough orientation to the appropriate uses of the division's services.
12. The Acting Assistant Secretary for Human Resources and Administration consults with the Offices of General Counsel and Accountability and Whistleblower Protection to provide adequate mechanisms and training for all staff within the Office of Operations, Security, and Preparedness, including the Executive Protection Division, that ensure allegations of perceived misconduct by the VA Secretary can be appropriately addressed without the threat of retaliation.

VA Management Comments

The Acting Assistant Secretary for Human Resources and Administration agreed with the report and recommendations. However, the corrective action plans lacked clarity or specific steps to allow the OIG to assess the sufficiency of those plans. The OIG will continue to work with VA to more clearly define their specific steps to address and resolve the finding, and will then monitor implementation of planned actions. The OIG will close each recommendation when VA provides sufficient evidence demonstrating progress in addressing the issues identified.

The Acting Assistant Secretary's response indicated that actions related to Recommendations 1, 2, 3, 6, 7, 8, and 11 were completed. However, the OIG was not provided evidence to assess and verify those actions. The OIG will close these recommendations when VA provides sufficient evidence demonstrating the proposed actions have been completed.

Finally, as part of the response, the Acting Assistant Secretary noted that actions by the former VA Secretary and Chief of Staff contributed to, or delayed correction of, conditions covered by Recommendations 1, 2, 3, 6, 7, and 8. The OIG responded to those remarks on pages 29 through 31 of this report.



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Introduction and Background

The OIG performed this review to evaluate the merit of multiple complainants' allegations of mismanagement and misuse of the VA Executive Protection Division sufficient to compromise its mission to detect, deter, and defend against any threat of harm to the VA Secretary and Deputy Secretary.

These allegations have been summarized into two broad categories:

1. Problems pertaining to the general management of the Executive Protection Division, including ineffective procedures, scheduling and overtime abuses, pay administration issues, time card fraud, and various policy violations
2. Claims of waste and abuse arising out of the alleged misuse of the Executive Protection Division by former VA Secretary David Shulkin

Executive Protection of Federal Officials

Executive Protection services require detection, mitigation, and neutralization of varied risks posed to the individual protected (the principal). Protective services also entail analyzing potential threats and performing related planning. These essential ongoing planning tasks are used to create a "threat assessment." The assessment is used to calibrate the level of coverage needed (the number of agents and hours per day) to address the actual threats posed to the principal, which can change over time.

Protective services are provided to officials in all three branches of government. The U.S. Marshals Service provides protection services to the judiciary, the U.S. Capitol Police provides protection services to members of Congress, and the U.S. Secret Service provides protection services to the President and Vice President. Within the executive branch, individual agencies have also established an assortment of independent security units to provide protective services to agency officials. In addition, the Federal Protective Service provides security services to federal buildings.

Multiple offices of inspectors general and the U.S. Government Accountability Office (GAO) have issued reports detailing challenges in providing appropriate security protection to officials in the executive branch. Media reports also have focused attention on the high costs associated with executive protection services provided by federal agencies. Taxpayers incur significant

costs for this protection. The salary and travel associated with executive protection services at VA cost taxpayers at least \$2 million in 2016 and \$2.6 million in 2017.³

Congress has not required executive agencies to determine the necessity and scope of any executive protection services before establishing these functions. In the absence of statutory criteria, agencies (including VA) can exercise their own judgment in developing procedures, policies, and internal controls for determining whether, and to what extent, it is appropriate to use taxpayer funds on executive protection.

Challenges Common to Executive Branch Agencies Providing Executive Protection

In July 2000, GAO published a report analyzing standardization issues among protective services provided to executive branch officials in various agencies.⁴ The report identified a series of issues and inconsistencies in the approaches different agencies took to provide protective services. For example, in some agencies “protection was provided to respond to specific or perceived threats, available protective intelligence, and the protected officials’ wishes,” whereas other agencies used detailed written threat assessments to support the level of protection offered to the principals. Noting the lack of specific statutory authorization for providing executive protection, GAO observed that agencies justified their expenditures under a wide array of authorities, including the *Inspector General Act of 1978*, the general authority of an agency head to prescribe regulations for the agency, and various opinion memoranda and letters from counsel.

A primary concern explored by the GAO report was related to the inconsistencies among the agencies’ operations and their approaches to determining the necessity and scope of executive protection. GAO was particularly concerned that “the lack of thorough threat assessments documenting the level of protection needed makes it difficult to determine the basis for and reasonableness of the protection being given.” At the time, several agencies reported to GAO that they lacked “access to information from other agencies about potential and actual threats against their [own] officials.” Taking aim at impediments to information sharing among agencies, the GAO report included a series of eight recommendations made in July 2000 to the Office of Management and Budget (OMB), including that studies be conducted to evaluate

³ These costs represent payroll and travel reimbursements for members of the Executive Protection Division. In 2017, the *Washington Post* reported that the U.S. Department of Education reimbursed the U.S. Marshals Service \$5.28 million under an interagency agreement to provide protective services to Secretary of Education Betsy DeVos, over the eight months ending in September 2017. The cost of guarding Secretary DeVos for the next year was estimated at \$6.54 million. Similarly, the Environmental Protection Agency has reportedly used taxpayer funds to provide 24/7 security services to its Administrator, which amounted to more than \$3.5 million in payroll and travel costs for 2017.

⁴ U.S. Government Accountability Office, *Standardization Issues Regarding Protection of Executive Branch Officials* (2000).

whether a central protective intelligence repository should be established to assist with the development of threat assessments and determine whether security protection should be consolidated under one agency. GAO determined that Congress addressed four of the recommendations in December 2000 when it passed the *Presidential Threat Protection Act* (P.L. 106-544), which authorized the establishment of the National Threat Assessment Center (NTAC) as a unit within the U.S. Secret Service to facilitate information sharing among agencies.⁵ None of GAO's remaining recommendations were implemented, including that OMB consider the merits of centralizing security protection under a single agency. GAO has not published any subsequent reports on this topic.

Inspector general publications and related media reports revealed that agencies have continued to experience challenges in determining the necessity of executive protection services and the way such services are provided to agency officials, as these examples suggest:

- In September 2017, the Office of Inspector General for the Department of Homeland Security concluded that two of its component agencies, Immigration and Customs Enforcement and Customs and Border Protection, lacked a statutory basis for providing protection to their senior officials and had failed to adequately articulate the need for protection.
- In April 2017, the Administrator of the Environmental Protection Agency (EPA) became the first EPA Administrator to seek 24/7 security protection. News reports have also raised questions about the security justifications for premium-class travel by the EPA Administrator and expenditures for bulletproof seat covers and upgraded vehicles.
- In February 2017, citing unspecified threats, the U.S. Marshals Service confirmed that it assumed control of the protective services for the Secretary of the U.S. Department of Education, previously provided by an internal executive protection division.
- In December 2014, the U.S. Secret Service Protective Mission Panel published its findings and recommendations following a security breach incident on the White House grounds. Some of the panel's recommendations included an acknowledgement that improvements were needed in interagency collaboration between the U.S. Secret Service and other executive branch protective forces.
- In April 2013, the Office of Inspector General for the U.S. Department of Energy reported that although management had adopted written procedures to govern emergency responses and protection strategies in July and October 2012, as required

⁵ Although the U.S. Secret Service provides access to threat information and related training resources upon request, there is no statutory requirement for VA to seek such assistance.

by a department-specific policy, more than half of the protective division agents interviewed lacked a working knowledge of the procedures.

Despite persistent concerns, executive agencies continue to operate individualized security forces dedicated to providing protective services to senior executives. Whether these security services must be provided in response to well-documented threat analyses or merely in response to the personal preferences of the senior executives is a matter that Congress has not specifically addressed. As discussed throughout this report, the OIG concluded that VA's executive protection services are governed by entrenched informal practices without due regard to principles of executive protection, such as calibrating the security provided in response to a well-conceived threat assessment.

VA's Executive Protection Division

Any VA Secretary is a potential target for terrorist acts because he or she is a member of the President's cabinet and an executive in the line of succession to the presidency.⁶ The VA Secretary and Deputy Secretary can also be subject to threats made by employees of the department and veterans who might be dissatisfied with VA. The VA Executive Protection Division provides personal protection and transportation to the VA Secretary and Deputy Secretary. Until his departure, former VA Secretary Shulkin received protection and transportation seven days per week, including during travel out of the Washington, DC, region. The Deputy Secretary received protection and transportation during movements between home and work, and during official events.

Congress has not granted specific legislative authority to VA for establishing executive protection services.⁷ Like other executive branch departments without specific legislative authority, VA's expenditure for executive protection services is permissible on the premise that it is necessary and incident to the proper execution of VA's mission. The Comptroller General has long supported this rationale.⁸ To satisfy the Comptroller General's necessary expense doctrine, VA need only show that the expenditure (1) bears a logical relationship to the agency's appropriation, (2) is not prohibited by other law, and (3) is not otherwise provided for. Agencies have broad discretion to determine what expenditures are necessary to achieve their purpose so long as the relationship between the expenditure and the agency's purpose are not exceedingly attenuated. With respect to expenditures by an agency for executive protection, the Comptroller General has specified that the threat assessment should "form the basis for determining the need and scope of protection." Congress requires federal agencies to establish systems of internal control designed to increase the likelihood that the agency will efficiently achieve its objectives.

⁶ 3 U.S.C. § 19(d)(1).

⁷ By comparison, the U.S. Department of State is one of the few civilian executive branch departments with specific statutory authority to establish an executive protection service. *See* 22 U.S.C. § 2709(a)(3).

⁸ 54 Comp. Gen. 624 (1975), as modified, 55 Comp. Gen. 578 (1975).

This principle, together with the notion that the threat assessment defines the scope of executive protection, forms the boundary of VA's authority to spend appropriated funds on executive protection.

Congress provided VA with statutory authority to establish a police force to safeguard personnel and veterans throughout its many facilities. This distinguishing feature provides the VA Executive Protection Division with additional resources and efficiencies. For example, VA has its own Law Enforcement Training Center, which gives it the ability to offer accredited courses tailored specifically to the needs of VA, including classes about executive protection. In addition, when the VA Secretary and Deputy Secretary travel within the VA system, local VA Police augment the Executive Protection Division agents to assist with security needs. This provides VA with the ability to reduce travel and personnel expenses by leveraging professional security resources throughout the organization. With few exceptions, the jurisdiction of the VA Police is limited to activities that occur on VA property.⁹ As a result, VA Police Services' Executive Protection Division agents obtain a special deputation from the U.S. Marshals Service so they may make arrests and engage in law enforcement activities wherever their principal travels, regardless of whether the location is on VA property.¹⁰

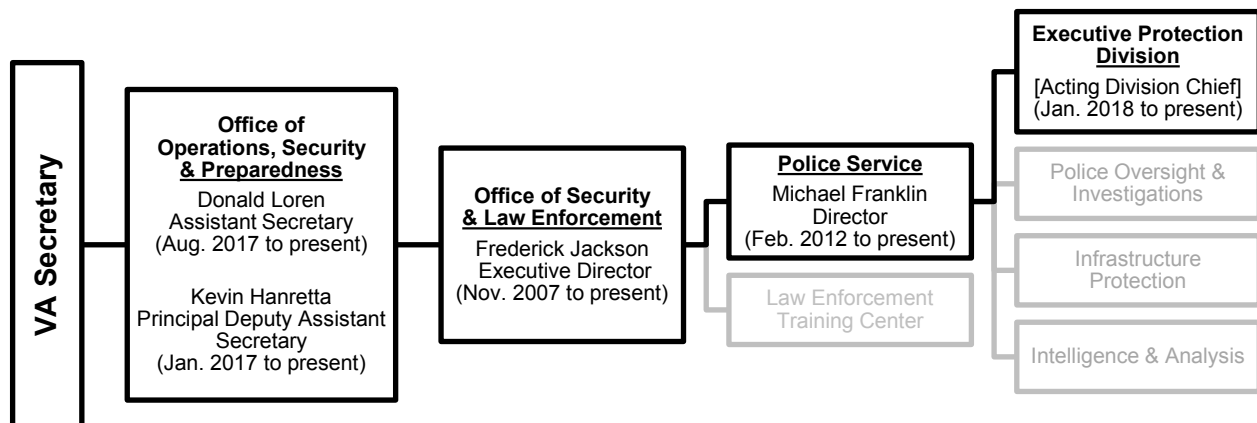


Figure 1. Reporting Structure of VA Executive Protection Division.¹¹

(Source: Excerpt of VA Organization Chart as of April 2018. Organizational elements depicted in light grey are identified to provide context but are not responsible for executive protection functions.)

The VA Executive Protection Division is led by a Division Chief who reports to the Director of the VA Police Service, which is a sub-office of the VA Office of Security and Law

⁹ 38 U.S.C. § 902(a) and 38 C.F.R. § 1.218.

¹⁰ 28 C.F.R. § 0.112.

¹¹ Effective September 12, 2018, the position of Assistant Secretary for Operations, Security, and Preparedness was eliminated. The Office of Operations, Security, and Preparedness and its associated functions were reassigned to the Assistant Secretary for Human Resources and Administration.

Enforcement.¹² From February 2017 to January 2018, the individual serving as the Executive Protection Division Chief changed three times. In January 2018, an acting Division Chief was appointed and served throughout the remainder of this review.

The Executive Protection Division Chief is responsible for setting agent schedules, communicating with the Secretary's staff to plan for upcoming security needs, and handling administrative matters such as time card approval. Although VA has approximately 4,000 police officers agency-wide, the Executive Protection Division has had an average staffing level of about 13 employees over the past three calendar years, composed of Special Agents (agents), Security Specialists, and a Motor Vehicle Operator.¹³ Some agents have served on the Executive Protection Division more than 10 years. VA requires agents assigned to the Executive Protection Division to possess specialized qualifications, including successful submission to a Single Scope Background Investigation and maintenance of Top Secret security clearance, satisfaction of the U.S. Marshals Service criteria to receive special deputation authority, and firearms qualifications.

Chronic Employee Relations Issues between the VA Executive Protection Division Personnel and Management

The relationship between Security Management and the agents has been defined by a persistent series of disputes about pay administration and similar administrative personnel matters since at least 2011. Long-simmering employee relations issues boiled over in 2011, when several agents and staff sued the United States seeking back pay, premium pay, liquidated damages, and interest.¹⁴ The parties resolved the litigation in 2013 before trial, with the United States agreeing to pay each plaintiff the claimed back pay and liquidated damages, as well as attorneys' fees and court costs. Despite this settlement, issues pertaining to overtime pay and scheduling continued to challenge the Executive Protection Division. From Security Management's perspective, the agents were generating too much overtime, with commensurate costs, and working a potentially unsafe number of hours. From the perspective of the agents, Security Management was seeking to unnecessarily limit opportunities for agents to earn additional income through overtime work.

The financial impact was a matter of significance to management and staff alike. For the two most recent calendar years, compensation exceeding base pay amounted to more than \$1.3 million. This constituted a sizable portion of income to staff. In 2017 alone, 10 staff members earned more than 30 percent of their income from premium pay. During calendar years

¹² For the purposes of this report, the term "Security Management" is used to refer to the three layers of management above the Executive Protection Division: The Police Service, the Office of Security and Law Enforcement, and the Office of Operations, Security, and Preparedness.

¹³ VA police officers are generally assigned to specific medical centers and report to the medical center directors, not to the Office of Security and Law Enforcement.

¹⁴ *Faas et al v. USA*, 11-115 C, (Fed. Cl. 2011)

2016 and 2017, more than 32 percent of the total compensation paid to agents and drivers was in excess of the base rate of pay.

**Table 1. VA Executive Protection Division
Compensation Expenditures**

Calendar Year	Base Salary	Additional Pay	Total Cost
2016	\$1,217,537	\$581,106	\$1,798,643
2017	\$1,592,677	\$766,060	\$2,358,737

Source: OIG analysis of VA payroll data. Additional Pay includes all compensation paid to an employee beyond the basic rate of pay (e.g., overtime, night differential, LEAP, and bonus awards).

In 2015, VA implemented Law Enforcement Availability Pay (LEAP) within the Office of Security and Law Enforcement. Under LEAP, a law enforcement officer receives a base salary plus a 25 percent premium in every pay period. On October 29, 2014, Director of the Police Service Michael Franklin issued a memorandum detailing the policy and procedures that would be followed under the implementation of LEAP.¹⁵ The purpose of the LEAP system is to automatically compensate law enforcement officers because the nature of a criminal investigator's work frequently requires unscheduled duty time. Security Management initially anticipated that the implementation of LEAP would eliminate the need to pay overtime to agents. This interpretation was incorrect, and within a few months the agents initiated complaints seeking the payment of overtime for hours worked in excess of the 10 hours per day required by LEAP.¹⁶

Even with the retroactive payment of overtime, additional pay administration challenges and complaints occurred when the agents reached statutory limitations for overtime compensation. All General Schedule (GS) employees of the federal government who are exempt from the *Fair Labor Standards Act of 1938* are subject to a limitation on the amount of premium pay (such as overtime, compensatory time, and other statutorily defined categories of pay) that can be earned in a given time period (Premium Pay Cap). The Premium Pay Cap is equivalent to the GS-15 step 10 salary for the employee's locality area and is measured on both a biweekly and annual basis. In calendar year 2017, the annual Premium Pay Cap applicable to the Executive Protection Division was \$161,366.40 and the biweekly Premium Pay Cap was \$6,206.40. Thus, agents could only receive premium pay up to the point that their annual compensation remained below \$161,366.40 and their compensation did not exceed \$6,206.40 in any one pay period. According

¹⁵ Although the policy was published in October 2014, the implementation of LEAP for the Executive Protection Division did not occur until August 2015.

¹⁶ This dispute remained unresolved until April 2016 and caused a high volume of time card corrections made in short intervals through at least December 2016.

to Security Management and the former VA Chief of Staff, in March 2017, agents complained that they were not being compensated for all overtime hours worked because of the \$6,206.40 biweekly limitation.

Subject to certain conditions, the Secretary is authorized to waive the biweekly limitation on pay if “an employee is needed to perform work that is critical to the mission of the agency.”¹⁷ In such case, the annual limitation continues to apply and may not be waived by the Secretary.¹⁸ On April 6, 2017, former VA Chief of Staff Vivieca Wright Simpson asked the VA Office of Human Resources and Administration to advise her about the Secretary’s authority to waive the biweekly limitations on pay. Later that day, the Office of Human Resources and Administration responded with a memorandum analysis, which concluded that the VA “Secretary has the authority to waive the biweekly pay cap for employees performing emergency or mission-critical work.” On April 12, 2017, in response to complaints brought to his attention directly by agents, Secretary Shulkin issued a memorandum delegating the authority to waive the biweekly limitation on premium pay to then Acting Assistant Secretary for Operations, Security, and Preparedness Kevin Hanretta. Mr. Hanretta waived the biweekly limitation effective July 18, 2017, through September 30, 2017. Secretary Shulkin further ordered the Office of Management’s Financial Services Center, Payroll Office, to ensure that the amounts paid did not exceed the annual limitation, which was not within the Secretary’s authority to waive.

Unsuccessful Efforts to Reform the Executive Protection Division

Starting at least as early as 2015, leaders within Security Management began to perceive problems with the operations of the Executive Protection Division. Specifically, Mr. Franklin, the Director of Police Service, was concerned with the high amounts of overtime being used. The Executive Director of the Office of Security and Law Enforcement, Frederick Jackson, stated that he was concerned with complacency displayed by some of the agents. Mr. Jackson attributed the complacency to the long tenure of some of the agents and proposed reassigning them on a rotational basis. This reform effort was impeded by the fact that the agents enjoyed a close working relationship with then VA Secretary Robert McDonald. For example, Mr. Jackson told the OIG that in a conversation with his supervisor about the proposed reassignment of an agent who Mr. Jackson perceived as complacent and disrespectful, Mr. Jackson was reminded by his supervisor that the agent in question was “like family” to Secretary McDonald. As a result, Mr. Jackson abandoned his plan to rotate the agent to a new position.

An informal chain of command had developed in which the agents were empowered to use their direct relationship with the VA Secretary to overrule undesirable changes proposed by Security Management. Upon his October 2015 retirement, the former Chief of the Executive Protection

¹⁷ 5 C.F.R. § 550.106.

¹⁸ 5 C.F.R. § 550.107.

Division wrote to his staff and actively encouraged them to air grievances about potential changes in overtime scheduling, rotation of assignments, and other rumored changes under consideration directly to the VA Secretary to be quashed.

After the change of administration in early 2017, Security Management began initiating some improvements, including a plan to rotate the staff in the Executive Protection Division. Subsequently, Mr. Jackson and Mr. Franklin met with Secretary Shulkin in February 2017 to discuss executive protection services. Mr. Jackson told the OIG that he explained to Secretary Shulkin the need to address complacency within the Executive Protection Division; this behavior had taken root due to agents who had remained in their roles for too many years. Mr. Franklin began implementing reforms by arranging for a trainer from the VA Law Enforcement Training Center with executive protection experience to be detailed to the Executive Protection Division for 120 days starting in early April 2017. The trainer was tasked with conducting “a holistic view of Police Services’ Executive Protection and to make additional recommendations concerning policies, procedures, developing continuity books, checklists, and staffing.”

In support of Security Management’s reform efforts, Mr. Jackson arranged for an April 5, 2017, meeting with representatives from the U.S. Secret Service. The purpose of the meeting was to brief the new VA Chief of Staff, Ms. Wright Simpson, on the protective mission of the Executive Protection Division, and to discuss best practices for management of the division.¹⁹ Topics of discussion included personnel scheduling strategies, professionalism, ethics, training, and pay administration. The meeting with the Secret Service was attended by Ms. Wright Simpson and senior leaders from Human Resources and the Office of General Counsel. In addition, Mr. Jackson, Mr. Franklin, and Mr. Hanretta attended with a long-serving agent from the Executive Protection Division.

Mr. Jackson told the OIG that as a result of that meeting, the U.S. Secret Service made four recommendations to VA: (1) transition from an overtime-based schedule to a shift-based schedule; (2) limit agent tenure to six years or less by rotating positions; (3) observe principles of professionalism in dealing with the principal, including avoiding any engagement with the principal about policy matters; and (4) ensure that communications between the Executive Protection Division and the principal are made with “one voice” rather than from multiple individuals. On April 6, 2017, Mr. Jackson advised VA Chief of Staff Wright Simpson that he would move forward with implementing the recommendations.

In May 2017, the Office of the Secretary intervened and stopped certain Security Management reform efforts. On May 4, 2017, the former VA Chief of Staff Wright Simpson directed Mr. Hanretta to end the rotating shift schedules. Then, on May 5, 2017, Ms. Wright Simpson emailed Mr. Hanretta to confirm that agents rotated into the Executive Protection Division had been sent

¹⁹ Chief of Staff Wright Simpson retired as of February 16, 2018.

home, including the trainer who was detailed to review and provide recommendations on executive protection policies and procedures.²⁰ Ms. Wright Simpson told the OIG that she was concerned that the agents' dissatisfaction with the proposed changes was causing them to become distracted from the protective mission. She further stated that Secretary Shulkin told her that he did not want Security Management to implement further changes until an Assistant Secretary for Operations, Security, and Preparedness was appointed.

On June 16, 2017, the White House announced the appointment of Donald P. Loren to serve as VA Assistant Secretary for Operations, Security, and Preparedness. Mr. Loren was sworn-in on August 10, 2017.²¹ On March 30, 2018, Mr. Loren notified the OIG that he had instituted changes to address some of the issues in the Executive Protection Division, many of which related to areas under OIG review. In particular, Mr. Loren stated that he reassigned agents whose tenure on the Executive Protection Detail had exceeded six years and eliminated one vehicle from the motorcade, except for instances in which the use of the additional vehicle was deemed necessary by security assessments.

²⁰ According to the Acting Chief of the Executive Protection Division, efforts to document procedures resumed in September 2017 when a new detail assignment began.

²¹ Assistant Secretary Loren resigned effective August 31, 2018.

Results and Recommendations

Finding 1: The VA Office of Operations, Security, and Preparedness Failed to Effectively Manage the Executive Protection Division, which Resulted in Security Lapses, Waste, and Abuse

From at least 2015 through April 2018, VA mismanaged the Executive Protection Division by (1) failing to establish essential operational procedures, (2) neglecting to create and maintain adequate threat assessments on the VA Secretary, (3) relying excessively upon an overtime-based scheduling strategy, and (4) failing to adequately supervise the executive protection agents.

Lack of Essential Operational Procedures and Nonadherence to Existing Procedures Led to Increased Risks to Security

The OIG identified several security vulnerabilities—caused by members or supervisors of the Executive Protection Division—that were sufficient to potentially undermine the security of the VA Secretary. These included the following incidents:

- An agent shared details of the VA Secretary’s anticipated movements on multiple occasions with individuals who were unauthorized to receive the information. The recipients of this sensitive information included non-VA employees, and the communications were transmitted outside of VA using unencrypted email.
- Agents established a practice of storing the motorcade vehicle keys behind the fuel door of the vehicle, rather than returning the keys to a secure location. This practice came to the attention of Mr. Franklin in April 2017, and he ordered that it stop. Security Management attributed this failure to complacency among the agents and a lack of leadership from the Division Chief.
- According to Security Management, agents had not been wearing the VA-provided protective body armor designed to shield the agent and the principal from harm. However, Mr. Jackson told the OIG that he never mandated the use of the body armor. Mr. Franklin stated that the agents had complained that the vests were uncomfortable and that they did not fit properly with their dress suits. The Acting Division Chief, who took office in January 2018, stated that he mandated that the agents wear the protective gear and acknowledged that this requirement needed to be documented in the division’s operating procedures, which as of March 2018 were still being drafted. The OIG determined that the absence of a written policy or procedure requiring the use of protective body armor contributed to the agents’ nonuse.

- According to the Acting Division Chief, agents did not receive an emergency signal from the VA Secretary's suite during a timed test due to equipment problems. The OIG determined that the Executive Protection Division lacked procedures for testing the panic alarm. The Acting Division Chief stated that he would institute procedures for periodic testing and proactive battery replacements.

During an interview on March 30, 2018, the Acting Chief of the Executive Protection Division stated that in addition to requiring agents wear protective body armor, he was in the process of drafting several other procedure revisions. Mr. Jackson told the OIG that the identified security vulnerabilities were emblematic of the complacency that he was attempting to address. He and Mr. Franklin both blamed the vulnerabilities on difficulty holding the agents accountable due to their close relationship with the VA Secretaries they protected. Both indicated that these were issues they had attempted to address.

In April 2017, at the direction of Mr. Franklin, the Executive Protection Division began reviewing certain operational functions working toward an updated and comprehensive written Standard Operating Procedure (SOP) for the division. The prior SOP was issued in 2009. According to a Supervisory Criminal Investigator, this process included creating checklists for certain activities, such as the procedures for gaining access to the White House and Capitol Hill. An initial draft of the SOP was produced and approved in May 2017. The topics covered in the SOP focused largely on specific responsibilities of each member of the detail team and assumed that the VA Secretary would have the same detail configuration at all times. It also included a checklist of training and certifications needed by Executive Protection Division staff, dress code requirements, and other matters related to professional conduct. The SOP did not describe additional scenarios that might be necessary in response to fluctuating threat assessments or other unexpected situations.

The Acting Chief of the Executive Protection Division told the OIG in March 2018 that he was working to draft guidance for several essential topics that were missing from the May 2017 SOP. These included procedures for the Executive Protection Division's response to an active shooter, fire emergency, medical emergency, natural disaster, terrorist attack, and a direct threat to the principal.

In addition, the OIG determined that the SOP lacked procedures for conducting drills and testing security measures and equipment. A detailed after-action account provided to the OIG by the Acting Chief of the Executive Protection Division demonstrated inadequate equipment monitoring during an unannounced test of the VA Secretary's panic alarm on March 9, 2018, while the VA Secretary was not in the office. At approximately 9:40 a.m., the Acting Chief of the Executive Protection Division initiated a test of the Secretary's panic alarm. The Secretary's panic button did not activate when pressed because the battery was dead. The test was repeated at 9:45 a.m. after the battery had been replaced. None of the agents received or responded to the alarm, which was not working. At 9:56 a.m., an email was sent to the agents with the message

“Panic Alarm in SECVA suite went off. Please Respond.” Three agents responded to the email by arriving in the Secretary’s suite, 11 floors above their office, at 10:02 a.m. The Acting Division Chief’s document did acknowledge that if the VA Secretary was in the office, an agent would have been stationed “a few doors down; mere seconds from the panic button location.”

As a result of equipment issues identified during the test, the Acting Chief of the Executive Protection Division told the OIG that he would institute procedures to check and replace the alarm batteries on a routine basis. In addition, he stated that the test revealed that the visual and auditory alarm in the room where the agents were stationed was no longer operational due to equipment that had been removed during a recent renovation. Repairs were ordered to address this issue.

Lack of Procedures for Preparing and Maintaining Threat Assessments Resulted in an Inadequate Security Plan for the VA Secretary and Wasted Taxpayer Funds

Whenever the Executive Protection Division is assigned to protect a new principal, a fundamental task is assessing the vulnerabilities and threats relating to that principal daily (threat assessment). To be adequate, the threat assessment must identify and analyze the current threats against the principal and reflect continually updated information. According to the Acting Chief of the Executive Protection Division, this is accomplished by first interviewing the principal to learn about the individual’s routines, family relationships, and living arrangements; conducting surveillance of the principal’s home(s); and performing other investigative tasks. In addition, to the extent that more specific or general threats are identified, the Executive Protection Division must investigate those threats on an ongoing basis. According to GAO, the threat assessment should inform the nature and level of security coverage to be provided to the principal.²² The threat assessment also serves as justification for spending taxpayer funds on executive protection.

The Acting Chief of the Executive Protection Division told the OIG that when he took control of the office in January 2018, he requested a copy of the threat assessment in effect for the Secretary and Deputy Secretary and was told, “Well, we don’t really have one.” Instead, he said that he received “a dossier” that contained biographical information about the VA Secretary, but did not provide him with information sufficient to design an executive protection plan for either principal. For example, despite the fact that the Deputy Secretary had been in office for six months, the Executive Protection Division did not have his home address on file.

²² This is contrasted with site-specific threat assessments that are required whenever the principal is operating in another location, such as while traveling throughout the VA system. The OIG reviewed numerous examples of written site-specific threat assessments created by the Intelligence and Analysis Division and provided to the Executive Protection Division in connection with specific missions.

Accordingly, the Acting Chief notified both the Secretary and Deputy Secretary that he would need to interview them to formulate a threat assessment.

Inadequate Threat Assessment for Secretary Shulkin's Security Plan

An informal and poorly documented threat assessment process began as early as January 11, 2017, when Dr. Shulkin's nomination to become VA Secretary was announced. Then serving as Under Secretary for Health, Dr. Shulkin requested an immediate meeting with Director of the VA Office of Security and Law Enforcement Frederick Jackson and Director of the VA Police Service Michael Franklin. During the meeting, which occurred in the Under Secretary's office, Dr. Shulkin expressed concerns about his security and asked for information about the protection measures available to him as the nominee and as Secretary, if confirmed. Mr. Jackson told the OIG that Dr. Shulkin's nomination presented an unprecedented circumstance because it was the first time that a current VA official had been nominated for VA Secretary. Mr. Jackson told OIG staff that during this conversation, Dr. Shulkin made it clear that he was very concerned about his own security and that he wished for the Executive Protection Division to immediately provide him with protection services. Mr. Jackson honored this request and assigned an agent to Dr. Shulkin while awaiting the outcome of the confirmation process.

In February 2017, Mr. Jackson and Mr. Franklin met with newly confirmed VA Secretary Shulkin to further discuss executive protection services. During that February 2017 meeting with the Secretary and his senior staff, Mr. Jackson provided Secretary Shulkin with a series of security options and recommended that he select the option that provided the broadest scope of coverage. In a discussion with the OIG on the level of protection, Mr. Jackson stated that the "coverage was based on the situation and threats." The OIG received other testimonial evidence that the level of protection offered was consistent with the three preceding Secretaries. The recommended security option involved dispatching an advance agent to scout routes and destinations, as well as using a motorcade staffed with multiple security specialists when transporting the Secretary. In total, the plan called for at least three agents and a driver to accompany Secretary Shulkin everywhere he went. The recommended plan did not involve the extensive measures that would accompany 24/7 coverage, such as the establishment of a security control room near the VA Secretary's residence(s).²³

In response to the OIG's requests for support justifying this security recommendation, Mr. Jackson provided a document entitled, "Threat Assessment for the Secretary of Veterans Affairs Feb 2017" (February Threat Assessment). Mr. Jackson told OIG staff that he prepared the threat assessment on his own in February 2017 but conceded, "I'm not saying this was a great

²³ As discussed in Finding 2, during the discussions between Secretary Shulkin and Security Management it was never clear whether the protection was offered on a 24/7 basis or on some lesser interval. Secretary Shulkin understood that he was being provided with coverage on a 24/7 basis.

assessment. It was something that had to be done quickly to say something was on file. Bing. Be done.”

Mr. Jackson did not rely on specific information about Secretary Shulkin to prepare the February Threat Assessment; he compiled publicly available material obtained through internet searches describing various foreign and domestic terrorist attacks.²⁴ The connection between the terrorist events cited in the February 2017 Threat Assessment and the actual threat against Secretary Shulkin or the Office of the VA Secretary appeared weak at best. For example, the assessment cited international terrorist activities that were at least two years old and included locations such as Libya, where it was improbable that the VA Secretary would ever travel. In another example, the threat assessment asserted a 2015 coordinated terrorist attack in Paris, France, demonstrated direct, imminent terrorist threats from individuals acting alone in the United States. The referenced incidents in Paris were mass terror attacks targeting individuals occupying public spaces, not specific government officials, and thus bore little relevance to the individualized security needs of the VA Secretary.

Failure to Maintain the Threat Assessment Using Current Information

Even if the threat assessment prepared by Mr. Jackson was sufficient as a starting point, it was essential that the threat assessment be continuously updated with current information. The February 2017 Threat Assessment (the most recent assessment the OIG team identified) did detail an incident from the prior month, in which a VA employee with potential mental health issues attempted to meet the VA Secretary nominee at the VA Central Office. After driving several hundred miles, he reached the Secretary’s executive suite before being intercepted by law enforcement. However, the OIG did not identify documentation that the threat assessment was updated to consider similar subsequent events and concerns, such as the following:

- VA Police investigated a member of the public in February 2017 who began exhibiting unusual interest in the whereabouts and travel patterns of the VA Secretary.
- Local authorities investigated alleged vandalism in February 2017 at the medical practice of the Secretary’s wife.
- A dissatisfied veteran sent a series of abusive emails to Secretary Shulkin in October 2017 that also mentioned the Secretary’s spouse.

These incidents and other concerns should have been documented in the threat assessment and considered when designing Secretary Shulkin’s security.

²⁴ The threat assessment did warn that security officials needed to monitor veterans who caused problems at VA facilities, and specifically noted an out-of-state VA employee who had traveled to VA Central Office to see the new Secretary without an appointment.

Security Management's records were not consistently maintained in support of a dynamic threat assessment process. During a meeting with the OIG in November 2017, Mr. Jackson stated that the VA Secretary had been the subject of 81 direct threats since 2015 and that none had been deemed credible. The OIG requested information concerning these threats and was provided a summary chart identifying only 47 incidents for the period of August 15, 2015, to September 16, 2017. The chart provided no details about the facts underlying the incidents but instead simply listed the date of the incident, the category of assailant (e.g., "Distraught Veteran"), and the form of resolution (e.g., "Referred to Veterans Crisis Line"). The OIG's review of notes provided by Mr. Jackson revealed that the summary chart was not a complete listing of events and several relevant incidents were missing.

Mr. Jackson approached the task of creating the threat assessment as merely perfunctory, admitting that his objective was just ensuring that something was on file rather than making certain that the substance of the assessment was appropriate. Mr. Jackson told the OIG he "should have had no business" preparing the threat assessment for the incoming VA Secretary. When asked to explain why the task was not delegated to someone more junior, he stated that he only trusted Mr. Franklin and two of the agents, all of whom had been occupied at the time. When asked who was ordinarily responsible for preparing the threat assessment, Mr. Jackson vaguely responded, "the team" before acknowledging that this duty had never actually been assigned to any individual or office. The OIG determined that the Executive Protection Division failed to perform and maintain adequate threat assessments because the division lacked procedures governing the preparation and maintenance of threat assessments on its principals.

In the absence of a written policy or procedure requiring that the Executive Protection Division prepare thorough written threat assessments and keep them current, VA cannot be assured that security measures align with the actual security needs of protected individuals.

Lack of an Effective Process for Ensuring that Taxpayer Funds Were Not Wasted on Potentially Unnecessary Security

On April 11, 2017, one of Secretary Shulkin's assistants contacted Mr. Franklin to report that the Secretary would be traveling to London, England, in July 2017, so that any necessary arrangements could be made for support from the Executive Protection Division. The assistant told Mr. Franklin that past international travel included 3–4 agents to protect the principal. In his email response, Mr. Franklin advised that he would send three agents and stated that the agents would not be permitted to carry weapons into a foreign country.

By May 2, 2017, the tentative itinerary had been modified with the addition of a visit to Copenhagen, Denmark. The assistant asked Mr. Franklin for a list of names in order to plan flight arrangements. At this stage, Mr. Franklin had not yet received an itinerary of events or locations to be visited. He responded with a tentative list of eight names. Five agents were identified to cover Denmark while eight were identified to cover London. Mr. Franklin wrote,

“Once we see an itinerary and/or find out what support we’ll get from the Host Nation and Embassy, we can better determine the manpower needed.”

On June 1, 2017, Mr. Franklin requested in writing, and received from the assistant, the working itinerary of sites to be visited. This information was requested so that a threat assessment could be prepared and a determination made as to whether VA was sending the correct number of agents to support the mission. On June 5, 2017, Mr. Franklin received a memorandum issued by Ms. Wright Simpson on June 1, 2017, approving the travel for seven agents. Mr. Franklin stated that a few days before he received the memorandum, he participated in a conference call with the Office of the Secretary during which he advised that there may be a need to scale back the number of agents assigned to the trip. Mr. Franklin explained that although the memorandum does not so indicate, he interpreted it to mean that he was no longer permitted to make changes to the security staffing for the trip. Mr. Franklin told the OIG that at this stage he felt that he had been excluded from any future planning for this travel and that he was not in control of the composition of the Executive Protection Division support for the trip.

Mr. Franklin told the OIG he believed that providing eight agents was excessive.²⁵ He stated that it was his intention to reduce the number to only what was required, but that he was unable to do so at the outset of the planning because no details had been provided to him regarding the specific trip locations. Mr. Franklin told the OIG that based on prior experience during international travel to England, the host nation provided security. He also explained that this security is coordinated through the U.S. State Department Regional Security Officer (RSO), who serves as the liaison between the U.S. government and the host nation security.

Ultimately, the agents were unable to obtain local security resources while in London. On June 30, 2017, the RSO requested that the London Metropolitan Police Service (the Met) provide armed security guards to accompany the VA Secretary.²⁶ The decision of whether to provide such security is entirely within the discretion of the host nation. In this case, the Met declined to provide armed security to the VA Secretary. The reason stated was that United Kingdom officials did not consider the VA Secretary to be a position warranting security protection. In contrast, in Denmark, the host nation provided armed guards.

The OIG determined that Mr. Franklin’s lack of detailed information concerning the final activities planned for the trip to Europe precluded him from making an adequately informed managerial decision regarding the number of agents scheduled to travel. Email correspondence corroborates Mr. Franklin’s testimony that after approximately June 1, 2017, he did not participate in further planning activities while awaiting a finalized itinerary. The itinerary was not finalized until approximately July 10, 2017, several weeks after Ms. Wright Simpson’s

²⁵ Although Mr. Franklin refers to eight agents in his statement, as previously noted, the OIG found that the June 1, 2017, memorandum only approved travel for seven agents.

²⁶ The VA Executive Protection Division was not permitted to carry firearms in the United Kingdom.

memorandum had approved the list of travelers. Ultimately, the trip included only six agents, rather than the seven previously approved for travel in the June 1, 2017, memorandum. Email records corroborate that the security provided was designed by the Executive Protection Division agents themselves, without further input from Mr. Franklin.

Impact of Excessive Overtime Reliance on Division Efficiency and Risks to VA Secretary Security

During his November 2017 interview, Secretary Shulkin complained to OIG staff that he was receiving protection from inexperienced agents, which he partially attributed to the fact that the more experienced agents had hit the annual limitation on premium pay and could no longer receive compensation for overtime worked. Secretary Shulkin stated that his security protection had “holes in it left and right.”

I'm left places, when I come out of restaurants there's nobody there, [because] all of them go to coffee at the same time when I'm leaving the restaurant. I mean these guys aren't even trained appropriately to protect. And it's all because of these allegations that my senior guys who used to protect the Secretaries now believe that they can't work extra hours; and therefore, I get guys who have no idea what they're doing.

VA management is responsible for effective position management and use of overtime. Overtime is an option to be used only under conditions in which necessary operations cannot be performed through planned coverage by on-duty personnel during their regular non-overtime basic workweek.²⁷ Traditionally, the Executive Protection Division relied on an overtime-based scheduling strategy. When an agent was scheduled to work during the daytime, he or she was expected to work the entirety of the day and incur however much overtime resulted. The shift-based scheduling strategy was designed to minimize overtime by scheduling a shift change in the afternoon, so that the agents who provided protective services in the morning would be relieved by colleagues for the remainder of the day. The overtime-based scheduling strategy had at least three drawbacks: it was inconsistent with VA policy that overtime be reserved for circumstances in which operations cannot be performed through planned coverage by on-duty personnel; it increased the potential for staff fatigue due to long hours; and it posed staffing challenges caused by statutory limitations on overtime compensation, which prevented VA from paying employees for hours worked in excess of the limitation.

²⁷ VA Handbook 5011/23.

Table 2 shows the components of the compensation paid to the agents in 2017.

Table 2. Components of Pay for Executive Protection Division Staff 2017²⁸

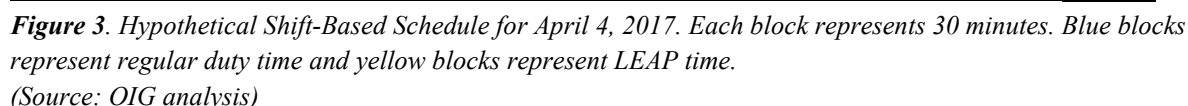
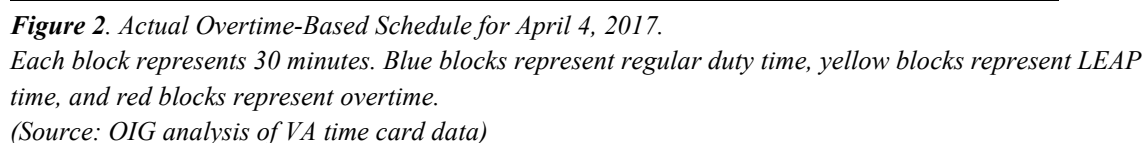
Employee	Base Pay	LEAP	Overtime	Night Differential	Misc. Pay	Total Pay
Agent B	\$ 108,290	\$ 30,269	\$ 23,588	\$ 1,153	\$ 860	\$ 164,162
Agent A	\$ 107,078	\$ 26,770	\$ 25,944	\$ 1,200	\$ 809	\$ 161,801
Agent G	\$ 111,070	\$ 27,767	\$ 19,685	\$ 1,019	\$ 1,348	\$ 160,889
Agent D	\$ 116,522	\$ 28,020	\$ 13,862	\$ 766	\$ 780	\$ 159,949
Agent K	\$ 110,219	\$ 28,706	\$ 9,412	\$ 994	\$ 1,286	\$ 150,617
Agent L	\$ 98,571	\$ 26,605	\$ 4,078	\$ 128	\$ 900	\$ 130,281

Source: OIG analysis of VA payroll data organized by total pay.

Rows shaded in red indicate that the employee reached the annual statutory limitation on premium pay.

The U.S. Secret Service staff who met with Security Management, Ms. Wright Simpson, and others on April 5, 2017, advocated a shift-based scheduling approach. Subsequently, on April 6, 2017, Mr. Jackson announced that the Executive Protection Division would begin planning a transition to a shift-based scheduling approach. The purpose of shift scheduling was to reduce the Executive Protection Division's reliance on overtime and consequently provide agents with a better work-life balance. On April 21, 2017, Mr. Franklin announced that he had obtained additional staffing to support the shift scheduling effort and consulted with the agents to identify and accommodate scheduling preferences. On May 4, 2017, Ms. Wright Simpson intervened on behalf of the agents and wrote to Mr. Hanretta, "Kevin you can't impose this type of change that is not supported by your team. The team and the Secretary (more importantly) is happy with the current schedule and coverage." As a result, Security Management stopped the implementation of a shift-based scheduling strategy and the agents continued to use overtime as the primary staffing model.

²⁸ This table includes only those agents who were employed within the Executive Protection Division for the entirety of 2017.



²⁹ See Office of Personnel Management Fact Sheet: Availability Pay, <https://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/fact-sheets/availability-pay/>.

5:00 a.m. through 10:00 p.m.³⁰ In total, eight agents would work 80 hours, of which 64 would be regular duty hours, 16 would be LEAP hours, and no overtime hours. No agent would work more than 10 hours in the day under this model.³¹

Excessive Use of Overtime and Increased Risk of Driver Fatigue

The Executive Protection Division's overreliance on overtime also caused potentially dangerous fatigue on the part of the VA Secretary's primary driver (Driver A). Driver A told OIG interviewers that he did not experience fatigue issues. Inconsistent with this statement, however, he acknowledged that he would routinely catch up on sleep by taking naps during duty hours. An analysis of Driver A's 2017 timekeeping data revealed the following data points:

- 277 days worked
- 1,340.5 overtime hours
- 92 instances of working 14 or more hours in a day
- 3 instances of working 17 or more hours in a day
- 23 instances of only a single day off before resuming work
- 9 instances of working 10 or more consecutive days, including one instance of working 19 days in a row

In 2017, Driver A was classified as a GS-12, Step 7, with a base salary of \$95,666. After factoring in overtime and other premium pay (such as holiday and night differential pay), Driver A earned \$191,832.37, which is more than double the annual base salary.³² The OIG determined that Driver A's extreme schedule resulted from a lack of policies and procedures to monitor and/or otherwise place reasonable limitations on the tours of duty worked by the VA motor pool drivers. In addition, the personal preferences of the VA Secretary and Deputy Secretary influenced the scheduling of drivers without regard to necessary rest time.³³ In one example, the senior support staff for the Acting Deputy Secretary raised an objection when a

³⁰ The hypothetical schedule assumes that the Executive Protection Division had adequate staffing. In April 2017, when the Executive Protection Division was initially planning to implement a shift-based schedule, Mr. Franklin arranged for additional staffing to support the effort.

³¹ In April 2018, Mr. Franklin told the OIG that the Acting Chief of the Executive Protection Division had recently implemented an experimental alternative work schedule that compressed the agent's work week into three 12-hour days and one 4-hour day. Mr. Franklin stated that his early assessment is that this approach is a promising way to reduce overtime.

³² As nonexempt wage-earning employees under the Fair Labor Standards Act (FLSA), the driver's overtime pay does not count toward the biweekly or annual premium pay limitations and therefore the \$161,366.40 limitation applicable to the agents did not apply to Driver A. See 5 C.F.R. § 551.501(d) for the legal exemption of FLSA overtime pay from overall limitations on premium pay.

³³ The OIG recognizes Department of Transportation regulations apply only to commercial motor vehicles; however, as a guideline, 49 C.F.R. § 395.5 – Maximum Driving Time for Passenger-Carrying Vehicles, provides that a driver shall not operate passenger-carrying vehicle more than 10 hours following 8 consecutive off-duty hours or any period after having been on duty 15 hours.

substitute was sought for the Acting Deputy Secretary's primary driver (Driver B). In the absence of a substitute, Driver B would have worked until 4:00 a.m. and resumed work at 7:45 a.m. through 8:30 p.m. When Mr. Franklin proposed a substitution, he had to seek support from his superiors to overcome resistance from the Acting Deputy Secretary's support staff.

Agents Circumventing the Chain of Command

The OIG determined that the reliance on potentially avoidable overtime occurred because Security Management was unable to implement alternative staffing models, such as duty shifts. Long-serving agents were accustomed to their schedules and resultant earning potential and intensely contested an effort by Security Management to change scheduling strategies. The OIG observed that long-tenured agents routinely raised issues such as overtime, scheduling, management competence, and work conditions directly to the Office of the Secretary, circumventing Security Management.

Example 1

In a March 2016 email between five agents, Agent A stated *"when [Agent B] was [detail leader] yesterday he was upstairs venting about everything going on with LEAP, etc. to the girls. Then [Secretary McDonald] came out and asked what was going on so [Agent B] vented everything to him."*

Example 2

In a March 2017 email between two agents regarding staff rotation, Agent C stated, *"Spoke to the boss today. Not happy. He'll call me to discuss [what's] going on."* Agent A responded, *"Boss as in SecVA?"* To which Agent C confirmed, *"Yup."*

Example 3

After the new Executive Protection Division Chief was announced in June 2017, an agent emailed the Special Advisor to the Secretary stating, *"OS&LE are at it again and this person just went to a one week protection class with no other experience in the field ... Still a big and unnecessary mess."*³⁴ The Special Advisor forwarded the email to the former VA Chief of Staff stating, *"I have multiple texts like this."*

³⁴ The OIG found that the Executive Protection Division Chief in question had 28 years of experience with the VA police and had worked executive protection activities under former Secretary Anthony Principi.

By circumventing the chain of command to express complaints, Executive Protection Division staff undermined the authority of Security Management and unnecessarily involved the Office of the Secretary in day-to-day management activities.

Materially False Time Cards

In July 2017, former Secretary Shulkin traveled to Copenhagen and London on official business. Travel and time and attendance records reflect that Agent A, Agent K, and Agent N arrived in Copenhagen on Saturday, July 8, 2017, a travel day outside of their regular administrative work week. According to the work schedule, the agents were assigned to conduct advance work to prepare for Secretary Shulkin's arrival on Wednesday, July 12, 2017. However, the agents told the OIG that they could not begin advance work for most sites until Monday, July 10, 2017, and that Sunday was a day off. The advance work consisted of surveying the sites on the Secretary's itinerary to identify security risks and develop plans to mitigate those risks.

Although Agents A, K, and N told the OIG they were off duty on Sunday, July 9, 2017, each of their respective time cards claimed six hours of overtime. Email correspondence seeking approval for the overtime reflects that all three agents claimed this as advance work. Agent K told OIG investigators that he was familiar with Malmo, Sweden, from a prior visit, and he suggested to Agents N and A that they visit Malmo on Sunday. Agent K stated that the visit was not a component of the advance work because Malmo was not on Secretary Shulkin's itinerary.

Initially Agent A told OIG investigators that Agent K, Agent N, and he went to Malmo as tourists. He said:

We were – if I remember we were asking the Danish guys like what, what's there to do because it was the weekend and there's no advance work to be done because they don't work, really work weekends over there. Um, so we were asking our local counterparts, you know, things to do, and they mentioned that Sweden was a 20-minute train ride away. So, we went over there and, you know, got some souvenirs for the kiddos, had lunch, then came back.

In a later interview, Agent A revised his response to state that planning for the unexpected is a component of advance work. He said the side trip to Malmo also constituted advance work because there was a chance the Secretary would want to go there. However, when asked whether he was in Malmo on official business, Agent A confirmed he was not.

Secretary Shulkin told OIG investigators that after he arrived in Copenhagen, the agents had casually mentioned their earlier trip to Malmo. As a result of this conversation, Secretary Shulkin decided to add dinner in Malmo to his Friday evening plans. When asked how the agents would have known to "advance" Malmo, Secretary Shulkin clarified: "Oh they didn't advance that for me. They went on – that was like their off time or whatever. I mean, I don't know why they went there. No, that was not an advance for me."

The OIG determined that all three agents made false statements in their requests for overtime for July 9, 2017, because the purpose of their excursion to Malmo, Sweden, was personal tourism, not official business as each represented in his overtime request to the supervisor who approved the time entries. The OIG concluded that the employees violated their obligation to accurately record their time. In addition, the OIG determined that this went undetected in part because the agents operated without effective supervision.

VA policy authorizes administration heads “to prescribe, in their responsible areas, such limitations as are necessary to provide control and prevent abuse of the use of overtime.” VA policy requires that timekeeping documents reflect actual hours worked, and states that the “[f]ailure to appropriately monitor compliance with the policies and procedures in this handbook, or failure to properly account for time and attendance may result in appropriate disciplinary and/or legal action.”³⁵ Security Management has not issued any written procedures for controlling or preventing abuse of overtime.³⁶ As such, the Executive Protection Division relied on an undocumented practice of communicating overtime worked to their supervisor via email, after the fact. The request for approval would also be entered into the official system of record, the VA Time and Attendance System (VATAS), after the overtime hours had been completed. Once the request was approved in VATAS, the time entry would also be recorded and maintained in VATAS.³⁷

In May 2016, Mr. Franklin wrote to the then Division Chief emphasizing the need for the Division Chief to closely supervise the time entries for accuracy. In his email, Mr. Franklin expressed concern that the time entries appeared to conflict with the published work schedule. The then Division Chief responded that the entries were accurate and advised that it was his practice to review the time claimed before it was entered into VATAS. As evidenced by the above instances of false time card submissions, this undocumented practice was not sufficient to prevent abuse of overtime. The OIG concludes that the Executive Protection Division incurred

³⁵ See VA Handbook 5011/23, Part II

³⁶ On October 29, 2014, Mr. Franklin issued a policy memorandum on timekeeping procedures for law enforcement staff (including the agents) receiving LEAP. These procedures set forth monthly tracking responsibilities for Special Agents and their supervisors to ensure that Special Agents are working sufficient hours to maintain their qualification for LEAP (average of two hours per day beyond the eight-hour workday). This policy does not address any procedures for controlling and preventing abuse of the use of overtime.

³⁷ During this review, the OIG received an additional allegation that an excessive rate of time card corrections among Executive Protection Division staff could be indicative of fraud. To assess this allegation, the OIG reviewed relevant employee payroll records for a two-month period covering March and April 2017, using available documentation, such as the schedule, the Secretary’s schedule, email records of the protection detail movements, LEAP tracking sheets, and email requests/approvals for overtime. The OIG’s analysis did not identify material differences between the time cards and other records corroborating the time actually scheduled or worked. The OIG confirmed that the Executive Protection Division staff had submitted a significant number of time card corrections, but that these corrections had justifiable explanations, such as additional overtime hours actually worked after the time card was submitted.

increased risk of time card abuses because it lacked written procedures identifying the process to schedule, request, approve, document, and audit compliance with VA timekeeping requirements.

Executive Protection Division Agents' Misuse of Official Positions for Private Gain

VA stores its motorcade vehicles in reserved parking spaces at a privately owned commercial parking garage within walking distance of the VA Central Office. Among the mismanagement allegations received by the OIG was a complaint that Executive Protection Division staff were using these government parking spaces for their personal use. Under a long-standing policy of the Comptroller General, parking incidental to ordinary commuting is a personal expense that must be borne by federal government employees.³⁸

Several Executive Protection Division staff acknowledged that it had always been their practice to park their personal vehicles in the vacated spaces of government vehicles. In August 2017, in response to a request from the Office of Security and Law Enforcement, the VA Designated Agency Ethics Official (DAEO) performed a legal analysis and determined that the employees using the parking spaces did so in violation of federal regulations, which provides that employees shall not use their public offices for private gain.³⁹ In addition, the DAEO stated that “it appears that two employees may have used transit benefits while also utilizing unoccupied government vehicle spaces.” This may render them ineligible to receive mass transit benefits.⁴⁰

Although the Executive Protection Division staff had engaged in this practice for many years, the OIG found no evidence prior to May 2017 that Security Management sought advice from the DAEO to determine whether the practice was allowed under applicable federal ethics rules. According to Mr. Jackson, addressing this issue was part of his effort to reform the culture that had developed under the recently retired Division Chief. As of November 2017, VA was providing the Executive Protection Division agents with the option of enrolling in its subsidized parking program at a cost of \$60 per pay period.

The OIG determined that this misconduct occurred because Security Management did not adequately supervise the Executive Protection Division.

Finding 1 Conclusion

The failure by Security Management to establish sufficient operational procedures and hold the agents accountable resulted in security lapses that potentially undermined the safety measures for the VA Secretary, false time card submissions by some agents, reliance on high amounts of

³⁸ Comptroller General. *Principles of Federal Appropriations Law*. Fourth edition. (2017).

³⁹ 5 C.F.R. § 2635.702.

⁴⁰ VA Handbook 0663, paragraph 1(g)(i).

overtime to provide protective services in lieu of staffing adjustments, and the abuse of official positions for personal gain by some agents. The OIG determined that these failures were caused by Security Management's inability to reform the Executive Protection Division by addressing known personnel problems and deficiencies in operating procedures. The underlying personnel and mismanagement issues that led to these failures have persisted since at least 2015, but became more visible when Security Management attempted to leverage the 2017 transition to a new VA Secretary in a stymied effort to implement long-stalled reforms. The OIG concluded that direct appeals by agents to the VA Secretary to address operational matters, such as overtime pay and scheduling strategies, were an impediment to Security Management's ability to implement needed reforms in the Executive Protection Division.

Recommendations 1–10

The OIG made the following recommendations to address the findings relating to the ineffective management of the Executive Protection Division:

1. The Acting Assistant Secretary for Human Resources and Administration ensures that the VA Police Service publishes written operational policies and procedures designed to regulate essential functions of the Executive Protection Division, including threat assessment processes, motorcade operations, security drills, equipment maintenance, use of personal protective gear, and other topics deemed appropriate after consultation with executive protection experts.⁴¹
2. The Acting Assistant Secretary for Human Resources and Administration makes certain that an adequate threat assessment is developed and kept current for each principal secured by the Executive Protection Division.
3. The Acting Assistant Secretary for Human Resources and Administration, along with the Director of the Office of Security and Law Enforcement and the Director of Police Service, reviews the U.S. Secret Service recommendation made to VA in April 2017 about shift scheduling and either implements the recommendation or thoroughly documents the reasons for non-implementation.
4. The Acting Assistant Secretary for Human Resources and Administration confers with the VA Offices of General Counsel and Accountability and Whistleblower Protection to ensure that bills of collection are issued to agents identified as receiving improper payments of overtime or travel reimbursement and to determine the appropriate

⁴¹ The OIG directed recommendations in the draft report to Ms. Jacquelyn Hayes-Byrd, who was then serving as the Acting Assistant Secretary for Human Resources and Administration. Mr. Daniel R. Sitterly was confirmed as the Assistant Secretary for Human Resources and Administration on January 7, 2019. Recommendations are now directed to Assistant Secretary Sitterly for implementation.

administrative action to take, if any, against agents and supervisors who submitted or approved falsified time cards.

5. The Acting Assistant Secretary for Human Resources and Administration consults with the Offices of General Counsel and Accountability and Whistleblower Protection to determine the appropriate administrative action to take, if any, against personnel involved with the nonsecure transmission of the former VA Secretary's anticipated movements to individuals external to VA who had no need to know.
6. The Acting Assistant Secretary for Human Resources and Administration ensures that the Executive Protection Division institutes procedures to report and appropriately address security lapses, such as those described in this report, and holds agents accountable for individual conduct that contributes to such lapses.
7. The Acting Assistant Secretary for Human Resources and Administration establishes written procedures for documenting the review and approval of employee overtime within the Executive Protection Division and ensures compliance.
8. The Acting Assistant Secretary for Human Resources and Administration assesses and takes remedial action, if necessary, to make certain that Executive Protection Division staff use parking and transit benefits in accordance with VA policy.
9. The Acting Assistant Secretary for Human Resources and Administration confers with the Offices of General Counsel and Accountability and Whistleblower Protection to determine whether any agents inappropriately accepted transit benefits while using VA parking spaces, and if so, determine the appropriate administrative action to take, if any.
10. The Acting Assistant Secretary for Human Resources and Administration works with the Offices of General Counsel and Accountability and Whistleblower Protection to institute procedures for an ombudsman or similar function that will enable the Executive Protection Division agents to address management disputes without needing to involve the VA Secretary.

VA Management Comments

The Acting Assistant Secretary for Human Resources and Administration concurred with the findings and recommendations. As part of the response, the Acting Assistant Secretary noted that the former VA Secretary and Chief of Staff contributed to the existence or persistence of conditions covered by Recommendations 1, 2, 3, 6, 7, and 8. Specifically, the Acting Assistant Secretary concurred with each recommendation, but stated the former VA Secretary and Chief of Staff

- Allowed some Executive Protection Division staff to circumvent Security Management and operate independently without fear of discipline (Recommendation 1) and prevented

the Office of Security and Law Enforcement from holding the agents accountable (Recommendation 6),

- Interfered with Security Management's effort to conduct a comprehensive threat assessment at the request of some agents (Recommendation 2) and overruled the implementation of shift scheduling recommended by the U.S. Secret Service because some agents complained about the personal financial impact (Recommendation 3), and
- Allowed for the abuse of overtime (Recommendation 7).

In addition, the Acting Assistant Secretary commented that the former Chief of Staff prevented Security Management from enforcing rules related to parking and transit benefits (Recommendation 8).⁴²

The Acting Assistant Secretary stated that the following actions were being taken to address the recommendations:

- **Recommendation 1:** As of the release of the draft report, the Office of Security and Law Enforcement consulted with five other agencies and published a written operational policy and an SOP to regulate essential functions of the Executive Protection Division. This covered items such as a threat assessment process, motorcade operations, and security drills.
- **Recommendation 2:** The Office of Security and Law Enforcement initiated a threat assessment process for the current VA Secretary and Deputy Secretary. The threat assessment will be reviewed continuously on a regular basis by the Chief of the Executive Protection Division, the Director of VA Police Service, and the Executive Director of the Office of Security and Law Enforcement. External agencies will be consulted as needed.
- **Recommendation 3:** As of the issuance of the report comments, the Office of Security and Law Enforcement has implemented all U.S. Secret Service recommendations including shift scheduling, a six-year service limit in the Executive Protection Division, and guidelines for communication with the principal.
- **Recommendations 4 and 5:** The Office of Security and Law Enforcement will work with the appropriate offices to identify and take appropriate administrative action for Executive Protection Division employees who (1) submitted materially false time cards, and (2) transmitted the former VA Secretary's anticipated movements in a nonsecure manner. The Acting Assistant Secretary stated that bills of collection would be issued if deemed appropriate.

⁴² These VA Management comments are discussed further in the OIG Response section on pages 29 through 31.

- **Recommendation 6:** The Executive Protection Division SOP requires Special Agents to keep all information and conversations obtained through their duties confidential. Furthermore, the Office of Security and Law Enforcement will hold all agents accountable to these standards.
- **Recommendation 7:** The newly hired Chief of the Executive Protection Division reviews all overtime requests to ensure compliance with applicable guidelines. The Chief reiterated to Executive Protection Division employees the purpose of LEAP and the agents' eligibility to receive overtime pay. Finally, the Acting Assistant Secretary stated that overtime usage has decreased.
- **Recommendation 8:** The Office of General Counsel further examined the matter and determined that employees may not use government parking (1) for free, and (2) if they are receiving transit benefits. The practice has since ended.
- **Recommendation 9:** The Office of Security and Law Enforcement will work with the appropriate offices to identify Executive Protection Division employees who inappropriately accepted transit benefits while using VA parking spaces and determine the appropriate administrative action to take, if any.
- **Recommendation 10:** Employees can address concerns and disputes through their chain of command, to include the Chief of the Executive Protection Division, the Director of the VA Police Service, or the Executive Director of the Office of Security and Law Enforcement. Furthermore, the Acting Assistant Secretary stated that employees can contact the VA OIG Hotline and the Offices of Special Counsel, Accountability and Whistleblower Protection, and Resolution Management.

Appendix B provides the full text of the Acting Assistant Secretary's comments.

OIG Response

The Acting Assistant Secretary's comments were responsive to the intent of the recommendations. However, the corrective action plans lacked clarity or specific steps to allow the OIG to assess the sufficiency of those plans. The OIG will continue to work with VA to more clearly define specific steps to address and resolve the finding, and will then monitor implementation of planned actions. The OIG will close each recommendation when VA provides sufficient evidence demonstrating progress in addressing the issues identified.

The OIG was not provided evidence to support that actions detailed in the response for Recommendations 1, 2, 3, 6, 7, and 8 were completed. As a result, the OIG could not verify and assess the corrective actions. The OIG will close these recommendations when VA provides sufficient evidence demonstrating the proposed actions are complete.

The OIG has several clarifications concerning the Acting Assistant Secretary's comments relating to the former VA Secretary and Chief of Staff. For Recommendation 1, while some Executive Protection Division staff circumvented Security Management and operated independently during Secretary Shulkin and Ms. Wright Simpson's tenure, these practices also occurred under prior leadership.⁴³ As indicated on pages 8 through 10 of this report, an informal chain of command and close working relationships with the Office of the Secretary existed as early as 2015.

Similarly, for Recommendation 7, extensive use of employee overtime did occur under Dr. Shulkin and Ms. Wright Simpson's tenure. However, as stated on pages 6–8, the OIG found that disputes regarding employee overtime and pay administration occurred between Security Management and Executive Protection Division agents since at least 2011.

Regarding the Acting Assistant Secretary's comments for Recommendation 2, the OIG cannot confirm interference by the former VA Secretary or Chief of Staff regarding the threat assessment process. As indicated on pages 13–16, the Executive Protection Division lacked procedures for preparing and maintaining threat assessments and relied on an informal and poorly documented threat assessment for Dr. Shulkin developed by the Executive Director of the Office of Security and Law Enforcement. As indicated on pages 14–16, Mr. Jackson stated that the threat assessment was done to ensure "something was on file." In addition, in testimony provided during multiple interviews with the OIG as late as April 2018, Mr. Jackson did not indicate that the threat assessment process was hindered by the Office of the Secretary. Mr. Jackson told the OIG that former Secretary Shulkin, in fact, asked him to perform a security assessment of his house.

For Recommendation 3, the OIG also stated on page 19 that a shift-based scheduling approach was advocated by the U.S. Secret Service and announced in April 2017. Furthermore, the Department confirmed the OIG assertion that Ms. Wright Simpson did intervene on behalf of the agents via email on May 4, 2017. The OIG will follow up on the Department's plans to implement the U.S. Secret Service's recommendations regarding shift rotation, agent tenure, and chain of command communications.

Regarding the Acting Assistant Secretary's comments for Recommendation 6, the OIG found no evidence that Security Management was aware of the security lapses or raised the issues to the former VA Secretary and Chief of Staff. As indicated on pages 11–13, many of the issues were not resolved as of early 2018. The OIG will follow up on whether adherence to the SOP is sufficient for the procedures required to address security lapses and hold responsible personnel accountable.

⁴³ Dr. David Shulkin was nominated and confirmed as the Secretary of Veterans Affairs in January and February 2017, respectively. Ms. Vivieca Wright Simpson assumed duties as the VA Chief of Staff in February 2017.

Finally, related to comments for Recommendation 8, the Acting Assistant Secretary stated that the former Chief of Staff prevented the Office of Security and Law Enforcement from taking action related to parking and transit benefits. However, as indicated on page 25, the practice of using VA parking spaces occurred for numerous years, including prior to Ms. Wright Simpson's tenure, and there was no evidence identified that legal advice was sought from the DAEO until May 2017.

Finding 2: Former VA Secretary Shulkin Did Not Abuse His Discretion by Using the Executive Protection Division for Nonofficial Events

As addressed in Finding 1, although VA has no detailed written policies or procedures on the matter, fundamentally the level of security provided should correspond to the current threats against the principal. In addition to ensuring that adequate security is provided, up-to-date attention to the threat level helps ensure that the cost does not exceed what is necessary.

Generally, VA has provided “portal-to-portal” security coverage to the VA Secretary. Under such an approach, security is provided to the VA Secretary during periods when the Secretary is in transit for official business, but not necessarily on a 24-hour basis. When a portal-to-portal strategy is used, the Executive Protection Division agents will end their duties after delivering the principal home at the end of the business day. When asked to explain why the VA Secretary would not need security if he decided to go out for a walk after being dropped off at home for the evening, the Acting Chief of the Executive Protection Division explained that the current threat assessment as of March 2018 indicated that the VA Secretary was subject to a “general crime threat,” which is the same as would be experienced by any other individual who might venture out into Washington, DC, at night.

Lack of an Effective Orientation to the Proper Use of the Executive Protection Division’s Services

Several members of the Executive Protection Division and of the VA Secretary’s senior staff reported that Secretary Shulkin and his senior staff expressed confusion about the scheduling and appropriate use of the agents’ services. Secretary Shulkin told the OIG that he understood from the outset that the protection was designed to be available on a 24/7 basis and he was not told otherwise. He said this level of protection was recommended to him by Security Management and that he accepted it based on representations from Security Management that this protection level corresponded to the threat level and was consistent with the security provided to prior VA Secretaries.

In contrast, Mr. Jackson told the OIG that the threat level did not support 24/7 coverage and that what they offered the Secretary was a portal-to-portal strategy that would provide him with security during official activities. Secretary Shulkin told the OIG that beyond the understanding he formed in conversations with Security Management, he never received a protocol instructing him as to the appropriate use of his security personnel. The Secretary’s immediate support staff confirmed that Security Management did not provide a formal orientation as to how to work with the Executive Protection Division or what uses of the protective division were and were not appropriate. A senior assistant to the Secretary told the OIG that Secretary Shulkin “wasn’t given any instruction besides that you can have as much protection as you want and don’t have your wife in the car with the agents without you. You are the protectee, and so . . . you should be in the car.”

Documents from February 2017 that were shared with Secretary Shulkin reflect that the options presented to him employed a portal-to-portal strategy rather than 24/7 coverage. However, other records maintained by Security Management further confuse the circumstances with the inclusion of vague and conclusory statements such as the following:

As the [VA Secretary] is a President Cabinet official, and the [VA Secretary] faces clear and present danger from unknown sources, prudent measures must be taken 24/7 to ensure the safety of the [VA Secretary]. Thus, the [VA Secretary] is required to have an armed detail with him.

During his interview with the OIG, Mr. Jackson was asked whether the security coverage planned for Secretary Shulkin in February 2017 was intended to be 24-hour. Mr. Jackson's response illustrates the confusion:

Well, [Secretary Shulkin] asked that question. And what I told him was, I said, sir, this coverage will be coverage based on the situations and the threats. His response was, he wanted his coverage all the time, to ensure his safety. Which I understand that, and I get that. And that's, okay. Okay. Now, was the coverage 24/7? No, because when he got to his home, agents weren't there.

Tensions related to Secretary Shulkin's use of the Executive Protection Division surfaced within a few weeks of his taking office. On March 3, 2017, after receiving a weekend assignment, an agent wrote via email to the Secretary's Executive Assistant, "We're coming in on a Saturday to take him house hunting?" A similar email exchange among agents occurred in late March 2017 relating to weekend visits to a furniture store and a Home Depot in Alexandria, Virginia. In interviews with the OIG, the staff who participated in these exchanges were reticent to criticize Secretary Shulkin and instead almost uniformly expressed the view that there had been a failure by Security Management to frame appropriate expectations around the Secretary's use of the Executive Protection Division's services during nonofficial events. Mr. Jackson told the OIG that these concerns were not communicated to Secretary Shulkin by Security Management.

The OIG concluded that the Secretary's confusion surrounding the appropriate use of the Executive Protection Division was the product of failed communication by Security Management. Security Management did not effectively orient Secretary Shulkin on the protection package being offered or its limitations, and did not provide sufficient guidance or advise the Secretary of issues being raised about his use of the detail after the initial February 2017 meeting.

Secretary Shulkin's Request for a Protocol Governing the Use of the Protection Detail

On October 27, 2017, a few weeks after the OIG concluded initial Executive Protection Division personnel and Security Management interviews, the newly appointed Assistant Secretary for

Operations, Security, and Preparedness Donald P. Loren issued a policy memorandum addressed to Secretary Shulkin titled, “Personal Protection for Cabinet Secretary and Deputy Secretary.” Mr. Loren’s memorandum stated that the protection provided was “based upon the threat to the principal and his/her location.” Mr. Loren further wrote:

The Assistant Secretary for Operations Security and Preparedness has determined that the Secretary requires security whether he is engaged in official business or personal activity. His security necessitates the use of Government vehicles and his detail, to include not only home-to-work use, to which he is entitled even in the absence of a security need, but also in connection with travel to and from his residence in Philadelphia, and for other personal reasons. For example, running errands, going out for meals, visiting friends and relatives, and engaging in recreational activities would all necessitate use of a Government vehicle and security details. Having the Secretary use his personal vehicle in connection with personal activity with his security detail leading and following him in Government vehicles would diminish the effectiveness of his security detail and require additional security resources.

Secretary Shulkin told the OIG that he specifically requested this memorandum, which he described as a “protocol” in order to clarify lingering confusion he had as to the appropriate uses of the Executive Protection Division.

The Reasonableness of VA’s Expenditures on Executive Protection during Nonofficial Events

The VA Secretary “is responsible for the proper execution and administration of all laws administered by the Department and for the control, direction, and management of the Department.”⁴⁴ The appropriateness of an expenditure on executive protection is evaluated under the Comptroller General’s necessary expense doctrine,⁴⁵ for which VA need only show that the expenditure (1) bears a logical relationship to the agency’s appropriation, (2) is not prohibited by other law, and (3) is not otherwise provided for. Agencies have broad discretion to determine what expenditures are necessary to achieve their purpose so long as the relationship between the expenditure and the agency’s purpose are not exceedingly attenuated. The necessary expense doctrine “does not require that the object of the appropriation could not possibly be fulfilled without making a particular expenditure. Put differently, the expenditure does not have to be the only way to accomplish a given object, nor does it have to reflect GAO’s perception of the best way to do it.”

⁴⁴ 38 US Code § 303.

⁴⁵ 54 Comp. Gen. 624 (1975), as modified, 55 Comp. Gen. 578 (1975).

As discussed in Finding 1, VA did not adequately document the threats posed to the VA Secretary and did not have procedures or policies requiring the preparation of such documentation. The OIG does not challenge the notion that the safety and security of the VA Secretary is under a general threat. However, the absence of an adequate threat assessment precluded the OIG from evaluating the reasonableness of the level of security provided and commensurate expenses, which included transportation and security for the VA Secretary during nonofficial events.⁴⁶

Finding 2 Conclusion

From his confirmation on February 13, 2017, until the issuance of Mr. Loren's memorandum on October 27, 2017, Secretary Shulkin relied on advice from staff within the Office of Operations, Security, and Preparedness. Secretary Shulkin's use of the Executive Protection Division personnel for nonofficial events was known to these individuals and there is no evidence that concerns were raised to him that his use was inappropriate. In the absence of instruction to the contrary, the OIG concluded that Secretary Shulkin was within his discretion to use the Executive Protection Division for nonofficial events during the period before Mr. Loren issued his October 2017 memorandum.

Recommendation 11

The OIG made the following recommendation to address the findings relating to the alleged conduct of the VA Secretary:

11. The Acting Assistant Secretary for Human Resources and Administration consults with the Office of General Counsel to confirm that the Executive Protection Division and the Office of Secretary have written policies and procedures reasonably designed to ensure that the principal under protection receives a thorough orientation to the appropriate uses of the Division's services.⁴⁷

VA Management Comments

The Acting Assistant Secretary for Human Resources and Administration concurred with the finding and recommendation. The Acting Assistant Secretary stated that the Office of Security and Law Enforcement established procedures to ensure the VA Secretary and Deputy Secretary receive a detailed initial briefing regarding the appropriate protection services available based on the threat assessment. In addition, the Acting Assistant Secretary stated that the Office of Operations, Security, and Preparedness provided a thorough orientation to the current VA

⁴⁶ GAO cited this same limitation in its July 2000 analysis of executive protection throughout the executive branch.

⁴⁷ As with previous recommendations, actions attributed to the Acting Assistant Secretary for Human Resources and Administration are to be carried out by the Assistant Secretary for Human Resources and Administration.

Secretary and Deputy Secretary. Appendix B provides the full text of the Acting Assistant Secretary's comments.

OIG Response

The Acting Assistant Secretary's comments are responsive to the intent of the recommendations. However, the OIG was not provided evidence that orientation procedures were formalized or that an official briefing with the current VA Secretary or Deputy Secretary occurred. As a result, the OIG could not assess the corrective actions identified in the response. The OIG will close the recommendation when VA provides sufficient evidence demonstrating progress in addressing the issues identified.

Finding 3: Secretary Shulkin Improperly Permitted the Executive Protection Division to Provide Transportation Services for His Spouse

The Executive Protection Division's mission is to provide security for the VA Secretary and VA Deputy Secretary. Generally, this mission does not include protection and related transportation for the principal's family. A senior assistant to Secretary Shulkin told the OIG that Security Management specifically instructed the Secretary that it was not permissible for the Executive Protection Division to provide transportation to other family members unless the Secretary was also present in the motorcade. The assistant specifically recalled that Secretary Shulkin was advised "don't have your wife in the car with the agents without you." Secretary Shulkin acknowledged that on at least one occasion his assigned driver provided transportation to the Secretary's wife.

Secretary Shulkin was adamant that this transportation was provided on the driver's personal time and without the use of government resources (i.e., as a personal favor). Secretary Shulkin told the OIG that he never asked the Executive Protection Division to provide transportation for his wife. A senior staff person who routinely traveled with Secretary Shulkin on official events testified that on two occasions the Secretary's primary driver departed an official event in the government vehicle in order to meet the Secretary's wife and provide her with transportation services. On both occasions, the Secretary and his staff had to use an alternative government vehicle and a different driver once the official event ended. Separately, the Secretary's driver acknowledged that there had been instances in which the Secretary's wife was present in the government vehicle without the Secretary. He specifically recalled taking her to the train station in the government vehicle without Secretary Shulkin being present in the vehicle. The driver added there were instances in which he used his personal car and personal time to provide transportation to the Secretary's wife.

Despite Secretary Shulkin's statement that he did not request such services, his driver testified that he used government resources (vehicle and official time) to provide transportation to the Secretary's wife. The use of a government vehicle by a VA employee to transport the Secretary's wife violated federal statutes and regulations prohibiting the use of government resources for other than authorized purposes.⁴⁸ The OIG also concluded that Secretary Shulkin violated ethical obligations by permitting his driver to use personal resources to provide transportation services to his wife. Except in limited circumstances that are not applicable here, federal regulations proscribe employees from directly or indirectly accepting gifts from subordinates.⁴⁹

⁴⁸ 31 U.S.C. § 1344(a)(1); 31 U.S.C. § 1349; 5 C.F.R. § 2635.704.

⁴⁹ 5 C.F.R. § 2635.302.

Personal favors and transportation services are included in the definition of gift.⁵⁰ Secretary Shulkin was aware that these services, which benefited him at least indirectly, were being offered to his wife. Accordingly, he had an ethical obligation to decline the gift.

Finding 3 Conclusion

Secretary Shulkin violated federal statutes and regulations prohibiting the misuse of government property and the acceptance of certain gifts when he allowed his VA employee driver to provide transportation to the Secretary's wife for nonofficial purposes.

Recommendation 12

The OIG made the following recommendation to address the finding relating to the alleged conduct of the VA Secretary:

12. The Acting Assistant Secretary for Human Resources and Administration consults with the Offices of General Counsel and Accountability and Whistleblower Protection to provide adequate mechanisms and training for all staff within the Office of Operations, Security, and Preparedness, including the Executive Protection Division, that ensure allegations of perceived misconduct by the VA Secretary can be appropriately addressed without the threat of retaliation.⁵¹

VA Management Comments

The Acting Assistant Secretary for Human Resources and Administration concurred with the finding and recommendation. The Acting Assistant Secretary stated that the Office of Operations, Security, and Preparedness will work with the appropriate offices to provide training to their staff to ensure that allegations of perceived misconduct by the VA Secretary can be appropriately addressed without retaliation. Appendix B provides the full text of the Acting Assistant Secretary's comments.

OIG Response

The Acting Assistant Secretary's comments and corrective action plans are responsive to the intent of the recommendations. The OIG will monitor implementation of planned actions and will close the recommendation when VA provides sufficient evidence demonstrating progress in addressing the issues identified.

⁵⁰ 5 C.F.R. § 2635.203.

⁵¹ As with previous recommendations, actions attributed to the Acting Assistant Secretary for Human Resources and Administration are to be carried out by the Assistant Secretary for Human Resources and Administration.

Appendix A: Scope and Methodology

Scope

The OIG conducted its review work from May 2017 through October 2018. The OIG reviewed executive protection activities within the Office of the Secretary and the Office of Operations, Security, and Preparedness from October 2015 through April 2018.

Methodology

The review focused on allegations referred to the OIG in May and October 2017. The OIG identified and reviewed applicable laws, regulations, and VA policies and procedures. In addition, the OIG interviewed and obtained relevant testimonial information from 30 current and former employees in the Office of the Secretary; Office of Operations, Security, and Preparedness; Office of Acquisition Operations; Office of Human Resources and Administration; and the Financial Services Center. The OIG also reviewed relevant pay records, threat assessments, contract files, travel documentation, and email correspondence—and conducted physical observations of VA-contracted parking.

The OIG examined extracts from VA's Personnel and Accounting Integrated Data (PAID) system from January 2015 through January 2018 and matched the extracted data to leave and earning statements in the Defense Finance and Accounting Service database. The OIG also reviewed the Executive Protection Division's time card records in VATAS from March 2015 through January 2018. In addition, the OIG reviewed data extracts from the Concur travel system from January 2016 through December 2017.

Finally, the OIG assessed 930 Executive Protection Division staff days, covering March through April 2017, to test internal controls. The OIG obtained timekeeping data from VATAS and overtime request and approval emails. The OIG compared this information to the protection detail's schedule, Secretary Shulkin's daily schedule, LEAP tracking sheets, and the emailed movements of the protection detail.

Fraud Assessment

The OIG team assessed the risk that fraud, violations of legal and regulatory requirements, and abuse could occur during this review. The team exercised due diligence in staying alert to any fraud indicators by taking actions such as

- Soliciting feedback from the OIG's Office of Investigations on potential indicators,
- Conducting interviews designed to identify fraudulent behavior, and
- Developing and executing a study of selected payroll records to identify potential trends or indicators of fraud.

The OIG identified three specific instances of individual employees submitting materially false time cards and referred those matters for administrative action.

Data Reliability

The OIG used computer-processed data from PAID to determine the amount of pay Executive Protection Division staff received. To test the reliability of PAID data, the OIG reviewed a sample of records for data completeness and accuracy. The OIG compared supporting documentation, such as leave and earnings statements, to the data to ensure their key attributes matched, including employee names, base pay, LEAP, overtime, night differential, and dates.

The OIG also used computer-processed data from VATAS to determine the hours worked by Executive Protection Division staff and whether time cards were corrected. To test the reliability of VATAS data, the OIG reviewed a sample of records for data completeness and accuracy. The OIG compared the VATAS time cards and the LEAP tracking sheets to VATAS data obtained by the OIG Data Analysis Division to ensure that the dates, times, and hours worked matched.

Finally, the OIG used computer-processed data from the Concur travel system to determine the cost of Executive Protection Division travel expenses for calendar years 2016 and 2017. To test the reliability of the Concur data, the OIG reviewed a sample of travel vouchers for data completeness and accuracy. The OIG compared supporting documentation, such as receipts, with payment data from the Financial Management System and the Concur travel data to ensure that the payment amounts matched.

The OIG concluded the data used were sufficiently reliable to reach the assessments of the allegations, conclusions, and recommendations made in this report.

Government Standards

The OIG conducted this review in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation*.

Appendix B: VA Management Comments

Department of Veterans Affairs Memorandum

Date: November 19, 2018

From: Acting Assistant Secretary for Human Resources and Administration/Operations, Security, and Preparedness (006)

Subj: OIG Draft Report, Review of Mismanagement and Misuse of the VA Executive Protection Division (Project No. 2017-03499-D2-0149)

To: Assistant Inspector General for Audits and Evaluations (52)

1. Thank you for the opportunity to review and comment on the Office of Inspector General (OIG) Draft Report, Review of Mismanagement and Misuse of the VA Executive Protection Division. I concur with the findings and recommendations in the OIG report.

2. The Office of Security and Law Enforcement (OS&LE) in the Office of Operations, Security, and Preparedness (OSP) executes executive protection operations that deter, minimize, and respond to identified threats and vulnerabilities to the VA Secretary and Deputy Secretary.

3. OS&LE is actively working to address the recommendations and has already made significant progress:

Recommendation 1: The Acting Assistant Secretary for Human Resources and Administration ensures that the VA Police Service publishes written operational policies and procedures to regulate essential functions of the Executive Protection Division including threat assessment processes, motorcade operations, security drills, equipment maintenance, use of personal protective gear, and other topics deemed appropriate after consultation with executive protection experts.

OSP Concurs: The former VA Secretary and Chief of Staff allowed some Executive Protection Division (EPD) employees to circumvent OSP leadership and operate independently without fear of discipline. As of the release of the draft report, OS&LE published a written operational policy and a standard operating procedure (SOP) that regulates essential functions of the EPD to include a threat assessment process, motorcade operations, security drills, equipment maintenance, and the use of personal protective gear. OS&LE consulted with the U.S. Secret Service (USSS), Department of Homeland Security, Federal Bureau of Investigations, U.S. Marshal Service, U.S. Army Criminal Investigation Command Protective Service Battalion, and other executive protection experts.

Recommendation 2: The Acting Assistant Secretary for Human Resources and Administration makes certain that an adequate threat assessment is developed and kept current for each principal secured by the Executive Protection Division.

OSP Concurs: During the OIG review, OS&LE leadership was unable to conduct a comprehensive threat assessment because of interference from the former VA Secretary and Chief of Staff at the behest of some of the EPD employees. OS&LE has since initiated a threat assessment process for the current VA Secretary and Deputy Secretary. This is an ongoing process continuously reviewed by the Chief of the EPD, the Director of Police Services, and the Executive Director of OS&LE. Moreover, OS&LE will ask an external, trusted agency with the same responsibilities to review VA's threat assessment, as needed.

Recommendation 3: The Acting Assistant Secretary for Human Resources and Administration reviews with the Director of the Office of Security and Law Enforcement and the Director of Police Service the April 2017 US Secret Service recommendation made to VA relating to shift scheduling and either implements the recommendation or thoroughly documents the reasons for non-implementation.

OSP Concurs: In April/May 2017, OS&LE attempted to implement USSS recommendations, but was overruled by the former VA Secretary and Chief of Staff as some EPD employees complained that changes would not benefit them financially. As of today, OS&LE has implemented all the USSS recommendations including: (1) a rotating shift schedule for the division; (2) no employee stays in the EPD over 6 years without a written waiver from OS&LE leadership; and (3) the Detail Leader, Director of Police Services, Chief of the EPD, and the Executive Director for OS&LE are the only ones who communicate with the VA Secretary and Deputy Secretary concerning substantive changes in protection methods.

Recommendation 4: The Acting Assistant Secretary for Human Resources and Administration confers with the VA Offices of General Counsel and Accountability and Whistleblower Protection to ensure that bills of collection are issued to agents identified as receiving improper payments of overtime or travel reimbursement and to determine the appropriate administrative action to take, if any, against agents and supervisors identified as submitting or approving falsified time cards.

OSP Concurs: OS&LE will work with the appropriate offices to identify the EPD employees who submitted materially false time cards and ensure that bills of collection are issued and if necessary, administrative action is taken.

Recommendation 5: The Acting Assistant Secretary for Human Resources and Administration consults with the Offices of General Counsel and Accountability and Whistleblower Protection to determine the appropriate administrative action to take, if any, against personnel involved with the nonsecure transmission of the former VA Secretary's anticipated movements to individuals external to VA who had no need to know.

OSP Concurs: OS&LE will work with the appropriate offices to identify EPD employees involved with the nonsecure transmission of the former VA Secretary's anticipated movements and determine administrative action to take, if any.

Recommendation 6: The Acting Assistant Secretary for Human Resources and Administration ensures that the Executive Protection Division institutes procedures to report and appropriately address security lapses such as those described in this report and holds agents accountable for individual conduct that contributes to such lapses.

OSP Concurs: Some EPD employees willfully engaged in bad security practices because the former VA Secretary and Chief of Staff did not allow OS&LE leadership to hold them accountable. Special Agents are sworn in for the security of all confidential and classified information as a matter of their positions and can be procedurally and criminally held liable for the misuse of that information. Per the EPD SOP, Special Agents must keep all information and conversations they are exposed to during their duties confidential. OS&LE leadership will hold all Agents accountable to these standards in accordance with the SOP.

Recommendation 7: The Acting Assistant Secretary for Human Resources and Administration establishes written procedures for documenting the review and approval of employee overtime within the Executive Protection Division and ensures compliance.

OSP Concurs: The former VA Secretary and Chief of Staff allowed for the abuse of overtime. OS&LE hired a new Chief of the EPD who reviews all overtime requests to ensure compliance with VA policy and Office of Personnel Management guidelines. The Chief of the EPD will continuously reiterate to EPD employees the purpose of Law Enforcement Availability Pay and when agents are legally eligible to receive overtime pay. Since the change of EPD leadership, and with the support of the current VA Secretary, Deputy Secretary, and Chief of Staff, overtime has plummeted.

Recommendation 8: The Acting Assistant Secretary for Human Resources and Administration assesses and takes remedial action, if necessary, to make certain that Executive Protection Division staff use parking and transit benefits in accordance with VA policy.

OSP Concurs: In the past, OS&LE leadership identified this problem and attempted to resolve it, but was scolded by the former VA Chief of Staff for enforcing the rules. The Office of General Counsel further examined the matter and stated that employees may not use government parking for free and may not use government parking if they are receiving transit benefits. This practice has since ended.

Recommendation 9: The Acting Assistant Secretary for Human Resources and Administration confers with the Offices of General Counsel and Accountability and Whistleblower Protection to determine whether any agents inappropriately accepted transit benefits while using VA parking spaces, and if so, determine the appropriate administrative action to take, if any.

OSP Concurs: OS&LE will work with the appropriate offices to identify the EPD employees who inappropriately accepted transit benefits while using VA parking spaces, and determine the appropriate administrative action to take, if any.

Recommendation 10: The Acting Assistant Secretary for Human Resources and Administration works with the Offices of General Counsel and Accountability and Whistleblower Protection to institute procedures for an ombudsman or similar function that will enable Executive Protection Division agents to address management disputes without needing to involve the VA Secretary.

OSP Concurs: Employees can address their concerns with the Chief of the EPD or one of the team leads. If employees do not feel like their concerns are addressed, they can go directly to the Director of Police Services and then to the Executive Director of OS&LE. If the Executive Director of OS&LE cannot resolve the matter, employees can go to the Principal Deputy Assistant Secretary for OSP. Employees are also able to contact the VA OIG Hotline, the Office of Special Counsel, the Office of Accountability and Whistleblower Protection, and the Office of Resolution Management.

Recommendation 11: The Acting Assistant Secretary for Human Resources and Administration consults with the Office of General Counsel to confirm that the Executive Protection Division and the Office of Secretary have written policies and procedures reasonably designed to ensure that the principal under protection receives a thorough orientation to the appropriate uses of the Division's services.

OSP Concurs: OS&LE established procedures to ensure the VA Secretary and Deputy Secretary receive a detailed initial briefing regarding the appropriate protection services available based on the threat assessment. Moreover, OSP provided a thorough orientation to the current VA Secretary and Deputy Secretary.

Recommendation 12: The Acting Assistant Secretary for Human Resources and Administration consults with the Offices of General Counsel and Accountability and Whistleblower Protection to provide adequate mechanisms and training for all staff within the Office of Operations, Security, and Preparedness, including the Executive Protection Division, that ensures allegations of perceived misconduct by the VA Secretary can be appropriately addressed without threat of retaliation.

OSP Concurs: OSP will work with the appropriate offices to provide training for all OSP staff that ensures allegations of perceived misconduct by the VA Secretary can be appropriately addressed without retaliation.

4. OSP leadership recognizes that the organization must continuously review and update EPD governance, policies, and procedures to ensure a secure and accountable environment. OSP will continue to work with OIG, all relevant VA stakeholders, and external agencies to ensure executive protection services meet the highest standards.

5. If you have questions, please contact Mr. Kevin Hanretta, Principal Deputy Assistant Secretary, OSP, at kevin.hanretta@va.gov or (202)-461-4980.

(Original signed by)

Jacquelyn Hayes-Byrd

<p><i>For accessibility, the original format of this appendix has been modified to comply with Section 508 of the Rehabilitation Act of 1973, as amended.</i></p>

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